

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

This application has been reviewed in light of the Office Action dated May 26, 2005. Claims 1-22 and 25 are currently pending in the application. As indicated above, Claims 12, 14, 16, 17, 19, 21, and 22 have been amended, Claim 25 has been newly added, and Claims 22 and 23 have been cancelled without prejudice.

In the Office Action, Claims 12, 14, 17, and 19 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite, Claims 1, 5-7, 9-13, 17-18, and 21-24 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Chheda et al.* (U.S. Patent No. 6,181,738), Claims 2-4 and 8 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Chheda* in view of *Wheatley, III et al.* (U.S. Patent No. 5,461,639) and *Bartelme et al.* (U.S. Patent No. 6,445,930), and Claims 14-16 and 19-20 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable *Chheda* in view of *Amada et al.* (U.S. Patent No. 5,559,804).

The present invention relates to an apparatus and method of controlling a power in a mobile communication system, and more particularly to an apparatus and method of controlling forward link power while in a *discontinuous transmission mode*.

In regards to Claims 12, 14, 17, and 19, which were rejected under 35 U.S.C. §112, second paragraph, as being indefinite, the Examiner asserts that it is unclear what “energy measuring” means. Because these claims each recite measuring the energy of a signal, while it is respectfully submitted that it is clear to one skilled in the art that the term “energy measuring” is synonymous with “power measuring”, in order to facilitate prosecution of the present application, as indicated above, the term “energy” has been amended to read as “power”, in Claims 12, 14, 17, and 19, and any claims that depend therefrom. Accordingly, it is respectfully requested that the rejection of Claims 12, 14, 17, and 19 under 35 U.S.C. §112, second paragraph, be withdrawn.

In regards to independent Claims 1, 5, 7, 11, 12, 17, and 22, which were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by *Chheda*, the Examiner asserts that *Chheda* teaches all the recitations of these claims. However, it is respectfully submitted that the Examiner is incorrect.

More specifically, for an Examiner to assert that the claim is anticipated by the reference, “No question of obviousness is present. In other words, for anticipation under 35 U.S.C. §102, the reference must teach every aspect of the claimed invention either explicitly or impliedly.” (See MPEP 706.02 (IV))

With regard to independent Claim 1, this claim recites providing a first ratio of an energy of the non-power control bits to an energy of the power control bits, and generating a power control command bit based on the ratio. However, the Examiner cites the ratio of E_b/N_o , which is a ratio of bit energy-to-noise, as allegedly reading on a ratio of the non-power control bits to an energy of the power control bits. Further the Examiner asserts that other measurements are possible, citing SNR, SIR, E_b/N_t as examples. However, it is respectfully submitted that there is no section of *Chheda* that teaches a ratio of the non-power control bits to an energy of the power control bits as would be required in order for Claim 1 to be anticipated by *Chheda*. Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting Claim 1 as being anticipated by *Chheda*.

With regard to independent Claim 5, this claim recites determining whether an energy of power control bits of a received frame is more than a first threshold value. However, it is respectfully submitted that there is no section of *Chheda* that teaches either determining an energy of the power control bits or comparing the determined energy to a first threshold value, as would be required in order for Claim 5 to be anticipated by *Chheda*. Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting Claim 5 as being anticipated by *Chheda*.

With regard to independent Claim 7, it is respectfully submitted that the Examiner’s rejection does not read on the recitations of Claim 7. Accordingly, it is respectfully submitted that the Examiner has not properly rejected Claim 7, and it is respectfully requested that the Examiner

examine Claim 7 as written.

With regard to independent Claim 11, similar to Claim 1, this claim recites a control section for generating a power control command based on a traffic-to-control ratio when the calculated control-to-noise ratio is good, said traffic-to-control ratio being *a ratio of an accumulated energy value of traffic symbol bits in the slots of the received frame to the accumulated energy value of the power control bits*. That is, in the present invention, the energy ratio is a ratio of energy of signal to energy of signal, while in *Chheda*, SNR is a ratio of signal to noise. Therefore, it is respectfully submitted that there is no section of *Chheda* that teaches said traffic-to-control ratio *being a ratio of an accumulated energy value of traffic symbol bits in the slots of the received frame to the accumulated energy value of the power control bits* as would be required in order for Claim 11 to be anticipated by *Chheda*. Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting Claim 11 as being anticipated by *Chheda*.

With regard to independent Claims 12 and 17, like independent Claim 1, these claims recite providing a first ratio of an energy of the non-power control bits to an energy of the power control bits. However, as presented above, it is respectfully submitted that no section of *Chheda* teaches a ratio of the non-power control bits to an energy of the power control bits as would be required in order for Claims 12 and 17 to be anticipated by *Chheda*. Therefore, it is respectfully submitted that the Examiner is incorrect in rejecting Claims 12 and 17 as being anticipated by *Chheda*.

With regard to independent Claim 22, as shown above, this claim has been amended to include features that are clearly not recited in *Chheda*, i.e., wherein the power control command represents one of states of “sufficient” and “insufficient”, the power control bits for performing a power decrease are generated if the power control command represents the “sufficient” state, and the power control bits for performing a power increase are generated if the power control command represents the “insufficient” state. Therefore, it is respectfully submitted that Claim 22 is patentably distinct from *Chheda*.

As indicated above, the Examiner has rejected independent Claim 4 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Chheda* in view of *Wheatley* and *Bartelme*. More specifically, the Examiner asserts that *Chheda* teaches using a cyclic redundancy code (CRC). Further, the Examiner attempts to make an argument that *Wheatley* and *Bartelme* provide some sort of teaching that allegedly would make it obvious to decrease power if no traffic symbols exist. However, independent Claim 4 recites detecting the CRC bits of a frame and generating a power control **decrease** command if the CRC bits are detected. Further, Claim 4 recites if the CRC bits are not detected, determining whether a control-to-noise ratio is good or bad. However, it is respectfully submitted that no sections in either *Chheda*, *Wheatley*, or *Bartelme* teach generating a power control decrease based on CRC bits being detected, not whether CRC bits have errors or not. Further, it is respectfully submitted that there are no sections in either *Chheda*, *Wheatley*, or *Bartelme* that teach if the CRC bits **are** detected, then determining whether a control-to-noise ratio is good or bad. Therefore, it is respectfully submitted that Examiner is incorrect in rejecting Claim 4 as being unpatentable over *Chheda* in view of *Wheatley* and *Bartelme*.

With regard to the rejections of independent Claims 5, 7, 8, 12, 17, and 22, it is respectfully submitted that the Examiner is incorrect, as neither of *Chheda* or *Chheda* in view of *Wheatley* and *Bartelme*, teach disclose any feature of the discontinuous transmission mode as is recited in Claims 5, 7, 8, 12, 17, and 22. Therefore, it is respectfully submitted that Examiner is incorrect in rejecting Claims 5, 7, 8, 12, 17, and 22 as being anticipated by *Chheda* or unpatentable over *Chheda* in view of *Wheatley* and *Bartelme*.

Accordingly, based at least on the arguments and amendments presented above, it is respectfully submitted that independent Claims 1, 4, 5, 7, 8, 11, 12, 17, 22, and 25 are in condition for allowance. Without conceding the patentability *per se* of dependent Claims 2, 3, 6, 9, 10, 13-16, and 18-21, these are likewise believed to be allowable by virtue of their dependence on independent Claims 1, 4, 5, 7, 8, 11, 12, 17, 22, and 25, respectively. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 6, 9, 10, 13-16, and 18-21 are respectfully requested.

In view of the preceding remarks, it is respectfully submitted that all pending claims, namely, Claims 1-22 and 25, are in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicants

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516
PJF/DMO/las